

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**August 19, 2003**

**IN RE:**

**IMPLEMENTATION OF THE FEDERAL  
COMMUNICATIONS COMMISSION'S TRIENNIAL  
REVIEW ORDER**

**DOCKET NO.  
03-00460**

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**ORDER DIRECTING INTERESTED PARTIES TO FILE  
PETITION TO INTERVENE**

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This matter is before Deborah Taylor Tate, as Hearing Officer, for the purpose of initiating the necessary proceedings at the Tennessee Regulatory Authority ("TRA") for implementation of the Triennial Review Order ("TRO" or the "Order") of the Federal Communications Commission ("FCC" or the "Commission").

**Background**

In recognition of the "rapid changes in technology, competition, and the economic conditions of the telecommunications market," the FCC has indicated its intent to periodically reevaluate its national list of unbundled network elements and anticipated that this process would occur every three years.<sup>1</sup> The first of these triennial reviews began in January 2002 in CC Docket No. 01-338.<sup>2</sup> On February 20, 2003, the FCC completed the process and announced in a press release its adoption of new rules for network unbundling obligations for ILECs. As part of

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<sup>1</sup> *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, FCC 99-238 (*Third Report and Order and Fourth Further Notice of Proposed Rulemaking*) 15 F.C.C.R. 3696, ¶¶ 148, 151 (November 5, 1999).

<sup>2</sup> *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, FCC 01-361 (*Proposed Rules*) 2002 WL 45561 (January 15, 2002).

this process, the FCC undertook an impairment analysis of switching to determine its future availability as an unbundled network element. According to the press release, the FCC made a presumptive finding of no impairment in regard to business customers being served by high-capacity loops and a presumptive finding of impairment in regard to mass market customers. These presumptions may be rebutted through mandatory proceedings at the state level, to be completed within ninety (90) days and nine (9) months, respectively.

At the regularly scheduled Authority Conference on June 16, 2003, the Directors discussed the imminence of the Triennial Review Order and methods for initiating the necessary proceedings at the TRA for implementation of the Order. Because of her current involvement with the Triennial Review Implementation Process (TRIP) Task Force,<sup>3</sup> Director Tate was appointed as Hearing Officer to prepare the issues arising out of the implementation of the Order for a decision by the appropriate voting panel(s).<sup>4</sup>

To promote efficiency and expedite the necessary proceedings at the TRA in anticipation of the release of the Order, all parties interested in the ninety-day (90) proceeding are directed to comply with the following procedural schedule:

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|----------------|---|
| <b>Day 0</b>   | FCC releases TRO  |
| <b>Day 1-7</b> | Interested parties file with the TRA one of the following: (1) a petition to intervene in the proceeding, in compliance with the requirements of Tenn. Code Ann. § 4-5-310(a), or (2) in lieu of intervention, a notice indicating that the party wishes to remain on the service list to receive related notices and orders. |
| <b>Day 7</b>   | The Hearing Officer will meet with intervening parties to discuss procedural and scheduling issues related to the ninety-day (90) proceeding. Immediately following release of the TRO, the Hearing Officer will issue a notice detailing the precise time and location of this meeting.                                      |

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<sup>3</sup> TRIP was created on March 13, 2003 by the National Association of Regulatory Utility Commissioners ("NARUC").

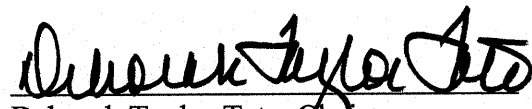
<sup>4</sup> Deborah Taylor Tate became chairman of the TRA after the June 16, 2003 Authority Conference on July 1, 2003.

For Tennessee consumers wishing to participate in or monitor these proceedings, the Consumer Advocate and Protection Division of the Office of the Tennessee Attorney General can be contacted at: 425 5th Avenue North, Nashville, TN 37243, (615)741-3491.

Upon its release, parties can access the TRO from the TRA's webpage at <http://www.state.tn.us/tra/index.htm>.

**IT IS THEREFORE ORDERED THAT:**

1. All interested parties shall file with the TRA the specified petition or notice, no later than seven (7) days following the release of the Order by the FCC.
2. On the seventh (7th) day following release of the Order, the Hearing Officer will meet with intervening parties to discuss procedural and scheduling issues related to the ninety-day (90) proceeding.

  
Deborah Taylor Tate, Chairman  
as Hearing Officer